IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3436 of 1991

For Approval and Signature:

HON'BLE MR. JUSTICE ANANT S DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

HADHUBHAI GOVABHAI KANTHECHA

Versus

T S RANDHAWA I A S

Appearance:

1. Special Civil Application No. 3436 of 1991

MR YS MANKAD for Petitioner No. 1

MR BY MANKAD for Petitioner No. 1

MR NN THAKORE for Respondent No. 1

Mrs. Manisha L. Shah AGP for Respondent No. 2-3

CORAM : HON'BLE MR. JUSTICE ANANT S DAVE

Date of decision: 02/11/2004

ORAL JUDGEMENT

1. In this petition, initially, this Court passed an

order on May 18, 1991, whereby, the suspension order dated 25th April 1991 was stayed. Against the said order, the respondents filed Letters Patent Appeal No.383 of 1993 wherein the Division Bench passed the following order on 24th November 1993.

"The learned single Judge has accorded stay of order of suspension dated 25.4.1991 passed against the respondent. The order of the learned single Judge is dated 18.5.1991. Ms.Jyoti Jumani, learned counsel representing Mr. Anil R. Dave, learned counsel on record for the appellants, would express a grievance that the order of the learned single Judge, even for according the interim relief, has not taken note of any relevant feature speaking in favour of staying the impugned order of suspension. On going through the order of the learned single Judge, we cannot say that this grievance of the learned counsel appearing for the appellants is without substance. But, there is one feature, which we are bound to take note of and when so taken note of, dissuades us from interfering assuming merits speak therefor at this juncture in Letters Patent Appeal. That feature is, the passage of time. As already noted, the order of the learned single Judge is dated 18.5.1991. The respondent, under the benefit of the order of the learned single Judge, must have been in service for over 2.1/2 years. We do not think we should disturb that position at this stage. It should be appropriate if we fix a date for the hearing of the Special Civil Application preferred by the respondent so that the whole question could be thrashed out and a decision thereon given by the Court. Accordingly, while we dismiss this Letters Patent Appeal, we direct that Special Civil Application No.3436 of 1991 be listed for final hearing on 10.1.1994 before the Court which hears such Special Civil Applications, peremptorily."

Though the Division Bench had given a direction that Special Civil Application No.3436 of 1991 be listed for final hearing on 10.1.1994, the matter is, very belatedly, listed for final hearing on November 2, 2004.

2. The learned advocate for the petitioner states that the petitioner expired on 9th February 2004 and, so far as the order of suspension is concerned, he has no further instructions as to whether to pursue the matter further or not from his legal heirs. He is unable to make a statement with regard to further action that can be taken by the legal heirs of the deceased petitioner in the matter. Since the petitioner has expired, the departmental proceedings, now, cannot continue, and the learned advocate for the respondent has no submission to make in this regard.

3. Under the circumstances, Rule is discharged. The interim relief is vacated. No order as to costs.

(Anant S. Dave, J.)
(swamy)